

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 22507 of 2006(D)

AGAINST THE ORDER DATED 23/06/2006 IN IA.NO.1677/2005 IN
AS.155/2005 of SUB COURT, OTTAPPALAM
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PETITIONER:

VELAYUDHAN, AGED 52 YEARS,
S/O.KORAN, NETTIYATHUPADI, CHALISSERY AMSOM AND
DESOM, OTTAPALAM TALUK.

BY ADV. SRI.RAJIT
SRI.V.V.JOY

RESPONDENTS:

1. THANKAMMA, AGED 47 YEARS,
W/O.KUNNATHARIPARAMBIL KUNHAN,
CHALISSERY AMSOM DESOM, OTTAPALAM.
2. MULLA, W/O.NEETIYATHUPADI THUPRAN,
RESIDING IN DO. DO.
3. JANAKI, D/O.MULLA, NETTIYATHUPADI,
CHALISSERY AMSOM AND DESOM, OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC : 22507 OF 2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE JUDGMENT DT.05.10.05 IN OS NO.42 OF 2003 OF THE
MUNSIFF MAGISTRATE COURT, PARRAMBI.

EXT.P2 : TRUE COPY OF THE APPLICATION IN IA NO.1677 OF 2005 IN AS NO.155 OF
2005 OF THE SUBORDINATE JUDGES COURT, OTTAPALAM.

EXT.P3 : TRUE COPY OF THE ORDER DT.23.06.06 IN IA NO.1677 OF 2005 IN AS
NO.155 OF 2005 OF THE SUBORDINATE JUDGES COURT, OTTAPALAM.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 22507 OF 2006

Dated this the 28th day of June, 2007

JUDGMENT

Ext.P3 order passed by the court of First Appeal in an appeal which was filed by the petitioner who was the unsuccessful defendant in a suit for injunction filed by the respondents is under challenge. I have gone through Ext.P3. I do not find any warrant for setting aside the same in the visitorial jurisdiction of this Court under Article 227. Ext.P1 judgment will also show that after trial the trial court concluded that the respondents had established their title and possession over the property. The learned counsel for the petitioner submits that on the strength of the decree which is impugned in the appeal AS No.155 of 2005, the respondents are committing acts of waste. Learned counsel for the respondent submits that they are not committing acts of waste since the property is under their possession and enjoyment. I dispose of the Writ Petition without setting aside Ext.P3, but directing the court below(Subordinate Judge, Ottappalam) to dispose of AS No.155 of 2005 in accordance with law at the earliest and at any rate within four months of receiving copy of this judgment. In the meanwhile I direct that the respondents shall not commit acts of waste on the property till a decision is taken in the appeal.

PIUS C. KURIAKOSE, JUDGE

btt

